

**BEFORE THE STATE BOARD OF MEDIATION
STATE OF MISSOURI**

INTERNATIONAL BROTHERHOOD OF)	
ELECTRICAL WORKERS, LOCAL UNION)	
NO. 753, AFL-CIO,)	
)	
Petitioner,)	
)	
v.)	Public Case No. 79-025
)	
CITY UTILITIES OF SPRINGFIELD,)	
MISSOURI,)	
)	
and)	
)	
THE CITY OF SPRINGFIELD,)	
MISSOURI,)	
)	
Respondents.)	

FINDINGS OF FACT
CONCLUSIONS OF LAW, AND DECISION

FINDINGS OF FACT

This case appears before the Missouri State Board of Mediation upon International Brotherhood of Electrical Workers, Local Union No. 753, AFL-CIO, (hereinafter referred to as "Petitioner"), filing with this Board a Petition for Certification as exclusive bargaining representative for a unit of employees of City Utilities of Springfield, Missouri, (hereinafter referred to as "Respondent Utility"), an independent division of the City of Springfield, Missouri, (hereinafter referred to as "Respondent City"). The petitioned-for unit, being solely composed of individuals within the employment of Respondent Utility, was as follows:

All office, clerical, custodial, technical, drafting, engineering, computer, laborer, secretarial, and all other employees not now represented by a labor organization. . . except confidential employees, supervisors, and guards.

Prior to a hearing on this matter being convened, the respective parties met and reached an agreement that three separate bargaining units (rather than a single unit) would more appropriately represent the interests of the employees concerned and that three separate representation elections should be held. One unit was to be designated as the Engineering Unit, another was to be designated as the Financial Unit, and the third was to be designated as the General Unit. In the process of resolving the questions of the questions of unit designation, the parties also reviewed the payroll records of Respondent Utility and submitted to the Board certain lists of employees that the parties had agreed should vote in each election. [All of those developments met with the Board's approval.] Remaining in dispute, however, were the employment statuses of seventeen individuals, for the purpose of voting and representation, said individuals being objected to by Respondent Utility and Respondent City on the ground that fifteen were "confidential" employees and that two were supervisors. Nevertheless, it was agreed by the parties that should any or all of the seventeen employees in dispute be permitted to vote to determine the representative status of Petitioner as to any of the three stipulated units, they should participate in the General Unit election.

On July 16, 1979, in the City Hall of the City of Springfield, Missouri, the representatives of the respective parties met at a hearing before the State Board of Mediation to present evidence. The case was heard by a panel of three members from the Board, said panel being composed of one employer member, one employee member, and the Chairman, the neutral member.

The only question presented to this Board for resolution, based upon the evidence produced at hearing, is that of the employment statuses of seventeen named individuals (i.e., Nancy L. Williams, Karen F. Stevenson, Arla Davenport, Kim A. Newton, Dorothy Lee, Vicky L. Clanton, Mary Ann Redfearn, Martha D. Climer, Andra

Hosiner, June L. Bohner, Mildred E. Lehar, Barbara Jo Hamilton, Doris L. Arndt, Cheryl Lynn Kile, Barbara J. McCormick, Pearl H. Snyder and Nancy Gale Butler) so as to determine their voting and representational rights.

The evidence adduced at hearing clearly indicates that the employment responsibilities of the following named individuals are as set out in the paragraphs below.

Nancy L. Williams is employed in the office of the Manager of Central Services, a department of Respondent Utility, as a stenographer. The Manager of that department has an administrative assistant who assists in the preparation of payroll, time cards, budgets, grievances, and other related office duties. Nancy L. Williams primarily does general typing and filing, but in the absence of the administrative assistant, she assumes the duties of the administrative assistant. Nancy L. Williams is objected to as being a "confidential" employee.

Karen F. Stevenson is employed as a secretary for the Supervisor of Data Systems, a section of the Financial Management Department of Respondent Utility. She types any reports or systems analyses made by the Supervisor and also does any typing related to grievances or the hiring, terminating or disciplining of employees as necessary in the performance of her employment position. Karen F. Stevenson is objected to as being a "confidential" employee.

Arla Davenport maintains the systems in the programming library of the Financial Management Department by filing computerized listings and documentations and by maintaining status reports on different systems progress. In the absence of Karen F. Stevenson, she assumes Karen F. Stevenson's duties. Arla Davenport is objected to as being a "confidential" employee.

Kim A. Newton is employed as a data coordinator within the Engineering Department of Respondent Utility. However, her responsibilities are more clearly that of a secretary and a supervisor of the "secretarial pool" (e.g., she distributes work, recommends pay, hiring, promotions, demotions, discharge, disciplinary action, etc.) She also may do some work which would normally be done by the administrative assistant to the Manager of the Engineering Department in the absence of the administrative assistant. Kim A. Newton is objected to as being a supervisor.

Dorothy Lee, Vicky L. Clanton, Mary Ann Redfearn, and Martha D. Climer comprise what is known as the "secretarial pool" of the Engineering Department of Respondent Utility. Each of them occasionally does some work for the Manager of the Engineering Department that would usually be done by the administrative assistant, in the absence of the administrative assistant. The primary responsibility of this so-called "pool", however, is that of doing general secretarial and clerical work for most of personnel of the Engineering Department. These individuals are objected to as being "confidential" employees.

Andra Hosiner is a secretary in the office of the Manager of the Engineering Department of Respondent Utility. Her responsibilities are similar to those of the secretaries within the "secretarial pool" of the Engineering Department (e.g., she may assist in the typing or filing of budgetary requests or personnel-related matter) and she may occasionally perform the work of the administrative assistant to the Manager in the absence of the administrative assistant. Andra Hosiner is objected to as being a "confidential" employee.

June L. Bohner is stenographer for the Project Management of the James River Power Plant. Her duties are secretarial in nature and do entail the typing of budgetary

requests, merit ratings of employees, and disciplinary or grievance-related materials for the Project Manager. June L. Bohner is objected to as being a "confidential" employee.

Mildred E. Lehar works as a stenographer for the Project Manager of the Water Bond Improvement Project of Respondent Utility. Her duties are secretarial in nature and include the typing of budgetary requests, merit ratings, and disciplinary or grievance-related materials for the Project Manager. Mildred E. Lehar is objected to as being a "confidential" employee.

Barbara Jo Hamilton is the secretary for the supervisor of Special Projects for the Power Production Department. It is her primary responsibility to assist in the maintenance of the records, including personnel records, of that Department. Generally, however, her duties in that area pertain merely to the filing, locating, or delivering of certain records upon request. Barbara Jo Hamilton is objected to as being a "confidential" employee.

Doris L. Arndt works as a secretary for the Power Production Department and, more specifically, as a secretary for the Supervisor of Special Projects (Electric Lines) and the Department Manager. In addition to her general secretarial duties, she assists in the maintenance of the records of that Department. Most of her responsibilities in that area, though, relate merely to the filing, locating, or delivering of certain records upon request. Doris L. Arndt is objected to as being a "confidential" employee.

Cheryl Lynn Kile, Barbara J. McCormick, and Pearl H. Snyder are the only three secretaries in the Customer Service Department of Respondent Utility. These secretaries type responses to customer inquiries, type grievance-related materials, and do have access to the records and personnel files of the Customer Service Department. These three secretaries have some rotation of responsibilities and are used

interchangeably, with one serving as the secretary of the Department Manager. Each of these three individuals is objected to as being a "confidential" employee.

Nancy Gale Butler is the supervisor of cashiers in the Customer Service Department. She directly supervises the work activities of three employees, namely two cashiers and a data coordinator, and has authority to recommend the hiring, dismissal, promotion, transfer, or discipline of said employees. It is further her responsibility to assure that all accounts balance at the close of each day and to direct activities toward that end. Nancy Gale Butler is objected to as being a supervisor.

CONCLUSIONS OF LAW

I

Section 105.525, RSMo, 1969, states in pertinent part:

Issues with respect to appropriateness of bargaining units and majority representative status shall be resolved by the state board of mediation.

II

The term "appropriate unit" is defined in Section 105.500 (1), RSMo. 1969, as follows:

[A] unit of employees at any plant or installation or in a craft or in a function of a public body which establishes a clear and identifiable community of interest among the employees concerned.

III

It has been and is the position of this Board that supervisors cannot be included in the same bargaining unit as the employees whom they supervise, because of a lack of community of interest. In the cases of Western Missouri Public Employees, Local 1812 and Missouri State Council 72, AFSCME v. Jackson County, Missouri (Department of Corrections), Public Case No. 90 and St. Louis Fire Fighters Association, Local 73, IAFF, AFL-CIO v. City of St. Louis, Missouri Public Case No. 76-013, the Board set forth the factors which are considered in determining whether an employee is a

supervisor. Upon a careful weighing and balancing of those factors, it is the opinion of this Board that competent and substantial evidence indicates that both Kim A. Newton and Nancy Gale Butler are supervisors and should be excluded from the proposed unit.

It is also the position of this Board that "confidential" employees should be excluded (by implication), under Section 105.510, RSMo, 1969, from an appropriate unit. "Confidential" employees have been defined as being those employees who assist and act in a confidential capacity to those persons who exercise managerial functions in the field of labor relations. Miscellaneous Drivers and Helpers Union, Local No. 610 v. City of Arnold, Missouri, Public Case No. 75-120; B.F. Goodrich Company, 115 NLRB 722 (1956). Furthermore, it is a well decided fact that secretaries are "confidential" employees where their duties put them in a position to acquire information pertaining to their employer's labor relations matters. Miscellaneous Drivers and Helpers Union, Local No. 610 v. City of Arnold, Missouri, Public Case No. 75-120; Moore-McCormick Lines, Inc., 181 NLRB 510 (1970). However, that test, for the determination of whether a secretarial employee is "confidential" and thereby excludable from a bargaining unit, is not one of mere accessibility to or occasional filing of confidential material, it is one that requires actual access to such confidential matters as part of their ordinary employment responsibilities. In light of the above standards, it is the opinion of this Board that the competent and substantial evidence indicates that Cheryl Lynn Kile and Barbara J. McCormick are "confidential" employees and should be excluded from the proposed unit. It is further the opinion of this Board that the competent and substantial evidence indicates that Nancy L. Williams, Karen F. Stevenson, Arla Davenport, Dorothy Lee, Vicky L. Clanton, Mary Ann Redfearn, Martha D. Climer, Andra Hosiner, June L. Bohner, Mildred E. Lehar, Barbara Jo Hamilton, Doris L. Arndt and Pearl H. Snyder are not "confidential" employees and should not be excluded from the proposed bargaining unit.

DECISION

It is the decision of this board that Kim A. Newton, Nancy Gale Butler, Cheryl Lynn Kile and Barbara J. McCormick, all within the employment of City Utilities of Springfield, Missouri, be excluded from an appropriate unit.

It is further the decision of this Board that Nancy L. Williams, Karen F. Stevenson, Arla Davenport, Dorothy Lee, Vicky L. Clanton, Mary Ann Redfearn, Martha D. Climer, Andra Hosiner, June L. Bohner, Mildred E. Lehar, Barbara Jo Hamilton, Doris L. Arndt and Pearl H. Snyder all within the employment of City Utilities of Springfield, Missouri, be permitted to vote in or be a part of the unit described as the General Unit in the stipulation for election.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the Chairman of the State Board of Mediation among the employees in the unit found appropriate, as early as possible, but not later than sixty (60) days from the date below. The exact time and place will be set forth in the notice of election to be issued subsequently, subject to the board's rules and regulations. Eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period, because they were out ill or on vacation. Ineligible to vote are employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. Those eligible shall vote whether (or not) they desire to be represented for the purpose of exclusive recognition by International Brotherhood of Electrical Workers, Local Union No. 753, AFL-CIO.

It is hereby ordered that the Respondent Utility shall submit to the Chairman of the State Board of Mediation, as well as to the petitioner, within seven (7) days from the date of receipt of this decision, an alphabetical list of the employees in the unit

determined above to be appropriate who were employed during the designated payroll period.

Signed this 1st day of October, 1979.

MISSOURI STATE BOARD OF MEDIATION

(SEAL)

/s/ Conrad L. Berry
Conrad L. Berry, Chairman

/s/ Robert Missey
Robert Missey, Employee Member

/s/ H.R. Scott
Harry Scott, Employer Member